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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,428	07/27/2001	Charles C. Haluzak	10008368-1	1124

7590

09/01/2005

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EXAMINER

CREPEAU, JONATHAN

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,428

Applicant(s)

HALUZAK, CHARLES C.

Examiner

Jonathan S. Crepeau

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/11/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-22 and 25-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-22 25-31 is/are allowed.
- 6) ☒ Claim(s) 32-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/1/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office action addresses claims 18-22, 25, and newly added claims 26-37. Claims 18- 22, and 25-31 are allowed and claims 32-37 are rejected for reasons already set forth on the record. Accordingly, this action is made final.

Information Disclosure Statement

2. The Office Action listed in the “other documents” section of the IDS filed 4/1/05 has been considered as to the information it contains but has not been formally made of record because it is an unpublished document.

Claim Rejections - 35 USC § 102

3. Claims 32-35 and 37 are rejected under 35 U.S.C. 102(a) as being anticipated by DE 19914681. In Figures 1 and 2, the reference teaches a silicon substrate (1) that supports a plurality of individual elongate fuel cells. Each fuel cell comprises two electrodes (4, 5) and a proton-conducting electrolyte (6) composed of a fluorinated sulfonic acid polymer (see claim 1 of the machine translation). The silicon substrate contains elongate fuel channels (3) that allow fuel to reach the anodes (5) of the fuel cells. The elongate fuel channels are supplied in a parallel manner by a cavity (10) in a glass substrate (11). Thus, the instant claims are anticipated.

Claim Rejections - 35 USC § 103

4. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19914681.

The reference is applied to claims 32-35 and 37 for the reasons stated above. However, the reference does not teach that the thickness of the PEM is in the range of 50-100 microns as recited in claim 36.

However, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the artisan would be sufficiently skilled to optimize the thickness of the membrane of DE '681. Generally, a thinner membrane will have less internal resistance but also less mechanical strength. It would be within the skill of the art to use an optimum thickness of the membrane of DE '681, e.g., a thickness within the claimed range. It has been held that the discovery of an optimum value of a result effective variable in a known process is ordinarily within the skill of the art. *In re Boesch*, 205 USPQ 215 (CCPA 1980).

Response to Arguments

5. Applicant's arguments filed June 11, 2005 have been fully considered but they are not persuasive. Applicant submits that the reference does not teach that "a single elongate fuel cell is positioned over each elongate fuel chamber opening" as called for in claim 32. However, it is submitted that the reference discloses the claimed chamber openings as reference character "3"

in Figure 1. At the bottom of page 1 of the translation (the copy submitted by Applicant), the reference states that “in the vicinity of the surface of the fuel cell 3, the n-conductive substrate is selectively removed.” Thus, the dark areas shown at “3” in Figure 1 appear to be etched, open areas that communicate both with cavities 10 and the fuel cells. As such, it is believed that the reference properly anticipates the claimed subject matter.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

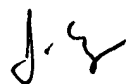
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached at (571) 272-1414. The phone number for the organization where this application or proceeding is assigned is (571) 272-1700. Documents may be faxed to the central fax server at (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jonathan Crepeau
Primary Examiner
Art Unit 1746
August 30, 2005